



# Missouri State Plan for Special Education

## State Regulations Implementing Part C of the Individuals with Disabilities Education Act



Missouri Department of  
Elementary and Secondary  
Education

Dr. Chris L Nicastro  
Commissioner of Education

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## INTRODUCTION

The Missouri Department of Elementary and Secondary Education (the Department) is the lead agency responsible for implementing Part C of the Individuals with Disabilities Education Act (IDEA). Missouri's early intervention program, First Steps, is operated through contractual agreements in ten regions across the State and a contracted Central Finance Office (CFO). The ten regional offices are known as System Points of Entry (SPOEs) and provide service coordination, evaluation and eligibility determination, as well as all local administrative activities for the program. The Department contracts with a single entity in each region to fulfill the SPOE function. Independent providers enroll with the CFO and provide direct services to children and families as outlined by the Individualized Family Service Plan (IFSP).

## **I. DEFINITIONS (34 CFR 303.6 through 303.37)**

The State of Missouri has adopted the definitions in 34 CFR 303.6-303.37 of the Part C regulations for use in implementing the State's early intervention program.

### Assessment of the Child (34 CFR 303.321)

Assessment means the procedures used by qualified personnel to identify the child's unique strengths and needs of the child and the identification of early intervention services appropriate to meet those needs while the child is participating in the Part C program.

The initial assessment of the child means a multidisciplinary assessment that occurs after the child's eligibility is determined but prior to the initial Individualized Family Service Plan (IFSP) meeting. The ongoing assessment of the child means a multidisciplinary assessment that occurs after the child's initial IFSP meeting.

### Assessment of the Family (34 CFR 303.321)

Family assessment means a family-directed assessment of the resources, priorities and concerns of the family, and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child.

### Child or Children (34 CFR 303.6)

Child or children means an infant or toddler with a disability, as that term is defined below.

### Consent (34 CFR 303.7)

Consent means:

- 1) parent(s) has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language.
- 2) parent(s) understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released;
- 3) parent(s) understands that the granting of consent is voluntary on the part of the parent, and may be revoked at any time; and,
- 4) if a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).

### Council (34 CFR 303.8)

Council means the State Interagency Coordinating Council.

### Day (34 CFR 303.9)

Day means calendar day, unless otherwise indicated.

### Developmental Delay (34 CFR 303.10 and 34 CFR 303.111)

The child, as measured by appropriate diagnostic measures and procedures emphasizing the use of informed clinical opinion, is functioning at half the developmental level that would be expected for a child considered to be developing within normal limits and of equal age. In the case of infants born prematurely, the adjusted chronological age should be assigned for a period of up to 12 months or longer if recommended by the child's primary medical home. The delay must be identified in one or more of the following areas:

- 1) cognitive development;
- 2) communication development;
- 3) adaptive development;
- 4) physical development, including vision and hearing; and,
- 5) social or emotional development.

#### Discipline or Profession

Discipline or profession means a specific occupational category that:

- 1) provides early intervention services to eligible children/families;
- 2) has been established or designated by the State; and,
- 3) has a required scope of responsibility and degree of supervision.

#### Early Intervention Records (34 CFR 303.403)

Early intervention records mean all records regarding a child that are required to be collected, maintained, or used under Part C of the IDEA.

#### Early Intervention Service Provider (34 CFR 303.12)

Early intervention service provider, referred to as provider, means an entity (whether public, private, or nonprofit) or an individual that provides early intervention services under Part C of the IDEA, whether or not the entity or individual receives federal funds under Part C of the IDEA, and may include, where appropriate, the lead agency and a public agency responsible for providing early intervention services to children with disabilities in the State under Part C of the IDEA.

A provider is responsible for:

- 1) Participating in the multidisciplinary individualized family service plan (IFSP) team's ongoing assessment of a child with a disability and a family-directed assessment of the resources, priorities, and concerns of the child's family, as related to the needs of the child, in the development of integrated goals and outcomes for the IFSP;
- 2) Providing early intervention services in accordance with the IFSP of the child with a disability; and,
- 3) Consulting with and training parents and others regarding the provision of the early intervention services described in the IFSP of the child with a disability.

#### Early Intervention Services (34 CFR 303.13)

Early intervention services means developmental services that:

- 1) Are provided under public supervision;
- 2) Are selected in collaboration with the parents;
- 3) Are provided at no cost, except where the system of payments policy includes fees;
- 4) Are designed to meet the developmental needs of a child with a disability and the needs of the family to assist appropriately in the child's development, as identified by following areas, including:
  - a) physical development;
  - b) cognitive development;
  - c) communication development;
  - d) social or emotional development; or
  - e) adaptive development;

- 5) Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the IDEA;
- 6) Are provided by qualified personnel;
- 7) To the maximum extent appropriate, are provided in natural environments; and,
- 8) Are provided in accordance with the IFSP.

Early intervention services include:

1) Assistive technology includes:

- a) *assistive technology device* means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g., mapping), maintenance, or replacement of that device.
- b) *assistive technology service* means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:
  - the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
  - purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
  - selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
  - coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
  - training or technical assistance for a child with a disability or, if appropriate, that child's family; and,
  - training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to, or are otherwise substantially involved in the major life functions of children with disabilities.

2) Audiology includes:

- a) identification of children with auditory impairments, using at-risk criteria and appropriate audiologic screening techniques;
- b) determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;
- c) referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;
- d) provision of auditory training, aural rehabilitation, speech reading and listening devices, orientation and training, and other services;
- e) provision of services for prevention of hearing loss; and
- f) determination of the child's individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

- 3) Dietary/Nutrition services include conducting individual assessments in:
  - a) nutritional history and dietary intake;
  - b) anthropometric, biochemical, and clinical variables;
  - c) feeding skills and feeding problems;
  - d) food habits and food preferences;
  - e) developing and monitoring appropriate plans to address the nutritional needs of children eligible based on assessment findings; and,
  - f) making referrals to appropriate community resources to carry out nutrition goals.
- 4) Family child care assistance includes in-home or other care arrangements to enable the child's family to participate in early intervention services that include a defined family component, i.e., family training or counseling services.
- 5) Family training/education means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an eligible child in understanding the unique needs of the child and enhancing the child's development.
- 6) Health services (34 CFR 303.16)  
Health services mean services necessary to enable a child to benefit from the other early intervention services during the time the child is receiving the other early intervention services. The term includes:
  - a) such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and,
  - b) consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services.

The term does not include services that are:

- a) surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); or
- b) purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose);
- c) related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.
  - Nothing limits the right of a child with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.
  - Nothing prevents the provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of a child with a disability are functioning properly;
- d) devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and
- e) medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.

- 7) Medical services means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.
- 8) Nursing services include:
- a) the assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;
  - b) provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and,
  - c) the administration of medications, treatments and regimens prescribed by a licensed physician.
- 9) Occupational therapy includes services to address the functional needs of a child related to adaptive development, adaptive behavior, and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home and community settings and include:
- a) identification, assessment and intervention;
  - b) adaptation of environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and,
  - c) prevention or minimization of the impact of initial or future impairment, delay in development or loss of functional ability.
- 10) Other Services mean services not defined herein that may constitute early intervention services. Other services must be provided by qualified early intervention personnel. Nothing prohibits the IFSP team from identifying another type of service as an early intervention service as long as that service meets the criteria as described in the definition of *Early Intervention Services* and is designed to meet the developmental needs of the child and family.
- 11) Physical therapy includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:
- a) screening, evaluation, and assessment of children to identify movement dysfunction;
  - b) obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and,
  - c) providing individual and group services or treatment to prevent, alleviate, or compensate for, movement dysfunction and related functional problems.
- 12) Psychological services include:
- a) administering psychological and developmental tests and other assessment procedures;
  - b) interpreting assessment results;
  - c) obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and



- d) planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

13) Service coordination services (case management) (34 CFR 303.34)

Service coordination services mean services provided by a Service Coordinator to assist a child and the child's family to receive early intervention services and parental rights. The Department's use of the term service coordination or service coordination services does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort (including Title XIX of the Social Security Act – Medicaid), for purposes of claims in compliance with the requirements described in Fiscal Administration under Section XVII.

Each child eligible and the child's family must be provided with one Service Coordinator who is responsible for:

- a) coordinating all services across agency lines; and,
- b) serving as the single point of contact in helping parents to obtain the services and assistance they need.

Service coordination is an active, ongoing process that involves:

- a) assisting parents of eligible children in gaining access to, and coordinating the provision of the early intervention services; and,
- b) coordinating the other services identified in the IFSP.

Specific service coordination activities include:

- a) conducting the family assessment, including interviewing the family;
- b) collecting information on the child's development, including observations of the child;
- c) assisting parents of eligible children in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for eligible children and their families;
- d) coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;
- e) coordinating evaluations and assessments;
- f) facilitating and participating in the development, review, and evaluation of IFSPs;
- g) conducting referral and other activities to assist families in identifying available providers;
- h) coordinating, facilitating, and monitoring the delivery of services to ensure that the services are provided in a timely manner;
- i) conducting follow-up activities to determine that appropriate Part C services are being provided;
- j) informing families of their parental rights, and related resources;
- k) coordinating the funding sources for services; and,
- l) facilitating the development of a transition plan to preschool or, if appropriate, to other services.

- 14) Sign language and cued language services include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.
- 15) Social work services include:
- a) making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
  - b) preparing a social or emotional developmental assessment of the child within the family context;
  - c) providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents;
  - d) working with issues in the living situation (home, community, and any center where early intervention services are provided) of a child and the child's family that affect the child's maximum utilization of early intervention services; and,
  - e) identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.
- 16) Special instruction includes:
- a) the design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
  - b) curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in IFSP;
  - c) providing families with information, skills, and support related to enhancing the development of the child; and,
  - d) working with the child to enhance the child's development.
- 17) Speech/Language pathology services include:
- a) identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;
  - b) referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communication or language disorders and delays in development of communication skills; and,
  - c) provision of services for the habilitation, rehabilitation or prevention of communication or language disorders and delays in development of communication skills.
- 18) Transportation and related costs include the cost of travel and other costs that are necessary to enable a child and the child's family to receive early intervention services (e.g., translation services)
- 19) Vision services mean:
- a) evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development;
  - b) referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and,

- c) communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.

Evaluation (34 CFR 303.321)

Evaluation means the procedures used by qualified personnel to determine a child's eligibility for the Part C program.

Homeless Children (34 CFR 303.17)

Homeless children means children who meet the definition given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.

Indian; Indian tribe (34 CFR 303.19)

- 1) Indian means an individual who is a member of an Indian tribe.
- 2) Indian tribe means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.).

Individualized Family Service Plan (IFSP) (34 CFR 303.20)

IFSP means a written plan for providing early intervention services to a child with a disability and the child's family that:

- 1) is based on evaluation and assessment results;
- 2) includes required content set forth below;
- 3) is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained; and,
- 4) is developed in accordance with the IFSP procedures set forth below.

Infant or Toddler with a Disability (34 CFR 303.21)

Infant or toddler with a disability means a child under three years of age who needs early intervention services because the child:

- 1) Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:
  - a) cognitive development;
  - b) physical development, including vision and hearing;
  - c) communication development;
  - d) social or emotional development;
  - e) adaptive development, or
- 2) Has a diagnosed physical or mental condition that:
  - a) has a high probability of resulting in developmental delay; and,
  - b) includes conditions such as: chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

Initial Evaluation of the Child (34 CFR 303.321)

Initial evaluation of the child means the procedures used by qualified personnel to determine a child's initial eligibility for the Part C program.

Lead Agency (34 CFR 303.22)

Lead agency means the agency designated by the Governor to receive funds to administer the State's responsibilities under Part C of the IDEA.

Local Educational Agency (LEA) (34 CFR 303.23)

LEA means a Missouri public entity with authority to administer control, direct or perform a service function for public elementary or secondary schools.

Multidisciplinary (34 CFR 303.24)

Multidisciplinary means the involvement of two or more separate disciplines or professions and with respect to:

- 1) evaluation of the child and assessments of the child and family may include one individual who is qualified in more than one discipline or profession; and,
- 2) the IFSP team must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the Service Coordinator.

Native Language (34 CFR 303.25)

Native language, when used with respect to an individual who is limited English proficient, means:

- 1) the language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child; and,
- 2) for evaluations and assessments conducted, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

Natural Environments (34 CFR 303.26)

Natural environments mean settings that are natural or typical for a same-aged child without a disability, may include the home or community settings.

Parent (34 CFR 303.27)

Parent means:

- 1) A biological or adoptive parent of a child;
- 2) A foster parent, unless State law, regulation, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- 3) A guardian generally authorized to act as the child's parent, or authorized to make early intervention, education, health or developmental decisions for the child (but not the State if the child is a ward of the State);
- 4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or,
- 5) An educational surrogate who has been appointed by the Office of Special Education.

The biological or adoptive parent, when attempting to act as the parent and when more than one party is qualified to act as a parent, must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child.

If a judicial decree or order identifies a specific person or persons to act as the “parent” of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the “parent” for purposes of Part C of the IDEA, except that if a provider or a public agency provides any services to a child or any family member of that child, that provider or public agency may not act as the parent for that child.

Participating Agency (34 CFR 303.403)

Participating agency means any individual, agency, entity or institution, that collects, maintains, or uses personally identifiable information to implement the requirements in Part C of the IDEA with respect to a particular child. A participating agency includes the lead agency, the System Point of Entry and any individual or entity that provides any Part C services, but does not include primary referral sources, or public agencies (such as Medicaid) or private entities (such as private insurance companies) that act solely as funding sources for Part C services.

Personally Identifiable Information (34 CFR 303.29)

Personally identifiable means information that includes:

- 1) the name of the child, the child’s parent or other family member;
- 2) the address of the child;
- 3) a personal identifier, such as the child’s or parent’s social security number; or,
- 4) a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty, such as the child’s date of birth.

Qualified Personnel (34 CFR 303.31)

Qualified personnel means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

Scientifically Based Research (34 CFR 303.32)

Scientifically based research means the term in section 9101(37) of the Elementary and Secondary Education Act (ESEA) of 1965, as amended. When applying ESEA to Part C of the IDEA, any reference to “education activities and programs” in ESEA means “early intervention services” in the Part C program.

State Educational Agency (SEA) (34 CFR 303.36)

The SEA is the Missouri Department of Elementary and Secondary Education (herein and after referred to as the Department).

System Point of Entry (SPOE) (34 CFR 303.11)

SPOE means the entity designated by the Department, through ten regional contracts, to provide service coordination including referral processing, eligibility determination and other local administrative activities for the Part C program.

### Ward of the State (34 CFR 303.37)

Ward of the State means a child who, as determined by the State where the child resides, is:

- 1) a foster child;
- 2) a ward of the State; or,
- 3) in the custody of a public child welfare agency.

Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent.

## **II. LEAD AGENCY (34 CFR 303.111 through 303.126)**

The Department is responsible for ensuring the provision of early intervention services to eligible children with disabilities and their families consistent with 34 CFR Part 303.

The Department is also responsible for ensuring that the minimum components of a statewide system of early intervention services for eligible children and their families, as required by the United States Department of Education is established and maintained in the State. The minimum components include the following:

- 1) A State definition of developmental delay;
- 2) A central directory of information relating to early intervention services, resources, experts, and research and demonstration projects available in the State;
- 3) A public awareness program;
- 4) A comprehensive child find system;
- 5) Evaluation and assessment procedures;
- 6) Development, review and evaluation of IFSPs and service coordination;
- 7) A comprehensive system of personnel development;
- 8) Development and implementation of personnel standards;
- 9) Development and implementation of parental rights;
- 10) General administration, supervision, and monitoring of the early intervention system;
- 11) Policies for contracting or otherwise arranging for services;
- 12) Data collection on the numbers of children with disabilities and their families in the State;
- 13) Policies and procedures that ensure that to the maximum extent appropriate, early intervention services are provided in natural environments; and the provision of early intervention services for any child occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the child in a natural environment;
- 14) Appropriate early intervention services are based on scientifically based research, to the extent practical and available, to all children with disabilities;
- 15) Reimbursement procedures that include the timely reimbursement of funds used under Part C of the IDEA; and,
- 16) The State Interagency Coordinating Council.

## **III. PUBLIC PARTICIPATION (34 CFR 303.208)**

At least 60 days prior to being submitted, the Department publishes the Part C application (including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application) on the Department's website and sends a listserv message to ensure circulation throughout the State for at least a 60-day period with an opportunity for public comment for at least 30 days during that period.

Before adopting any new policy or procedure needed to comply with Part C of the IDEA (including any revision to an existing policy or procedure), the Department will:

- 1) Hold public hearings on the new policy or procedure (including any revision to an existing policy or procedure);
- 2) Provide notice of the hearings at least 30 days before the hearings are conducted to enable public participation; and,
- 3) Provide an opportunity for the general public, including individuals with disabilities, parents of children with disabilities, providers, and the members of the Council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure).

#### **IV. CENTRAL DIRECTORY (34 CFR 303.117)**

The Department ensures a central directory of information is accessible to the general public through the Department's website. The central directory includes accurate, up-to-date information about:

- 1) Public and private early intervention services, resources, and experts available in the State (Provider Matrix);
- 2) Research and demonstration projects being conducted in the State relating to children with disabilities; and,
- 3) Professional and other groups (including parent support, and training and information centers, such as those funded under the IDEA) that provide assistance to children eligible and their families.

#### **V. PUBLIC AWARENESS PROGRAM (34 CFR 303.301)**

The Department ensures that a public awareness program has been developed that focuses on the early identification of children who are eligible to receive early intervention services, including the preparation and dissemination of information on the availability of early intervention services.

##### Preparation

The Department ensures the preparation of information on how to refer a child under the age of three for an evaluation, the availability of early intervention services and the availability of other services as identified in the central directory.

##### Dissemination

The Department ensures the dissemination of information to all primary referral sources (especially hospitals and physicians), and assists the primary referral sources in giving the information to parents of young children, especially parents with a premature child or a child with other physical risk factors associated with learning or developmental complications.

In addition, the Department informs parents of children with disabilities of the availability of services under Part B not fewer than 90 days prior to the child's third birthday.

#### **VI. STATE INTERAGENCY COORDINATING COUNCIL (SICC) (34 CFR 303.600 through 303.605)**

#### Establishment of Council (34 CFR 303.600)

The Governor of the State appoints the State Interagency Coordinating Council (SICC or Council). In making an appointment to the Council, the Governor ensures that membership of the Council reasonably represents the population of the State and meets the requirements of Part C of the IDEA. The chairperson is designated by the Council and any representative of the lead agency may not serve as the chairperson of the Council.

#### Composition (34 CFR 303.601)

The Council must be composed as follows:

- 1) At least 20 percent of the members must be parents, including minority parents, of children with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for children with disabilities. At least one parent member must be a parent of a child with a disability aged six years or younger.
- 2) At least 20 percent of the members must be public or private providers of early intervention services.
- 3) At least one member must be from the State legislature.
- 4) At least one member must be involved in personnel preparation.
- 5) At least one member must be from each of the State agencies involved in the provision of, or payment for, early intervention services to children with disabilities and their families and have sufficient authority to engage in policy planning and implementation on behalf of these agencies.
- 6) At least one member must be from the SEA responsible for preschool services to children with disabilities and have sufficient authority to engage in policy planning and implementation on behalf of the SEA.
- 7) At least one member must be from the agency responsible for the State Medicaid and Children's Health Insurance Program (CHIP) program.
- 8) At least one member must be from a Head Start or Early Head Start agency or program in the State.
- 9) At least one member must be from a State agency responsible for child care.
- 10) At least one member must be from the agency responsible for the State regulation of private health insurance.
- 11) At least one member must be a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.
- 12) At least one member must be a representative from the State child welfare agency responsible for foster care.
- 13) At least one member must be from the State agency responsible for children's mental health.
- 14) The Governor may appoint one member to represent more than one program or agency listed in numbers seven through 13.

The Council may include other members selected by the Governor, including a representative from the Bureau of Indian Education (BIE) or, where there is no school operated or funded by the BIE in the State, from the Indian Health Service or the tribe or tribal council. No member of the Council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest.



#### Meetings (34 CFR 303.602)

The SICC meets at least quarterly. To comply with Missouri's Open Meetings Law, all meetings are generally announced at least one week in advance and at a minimum of 24 hours in advance at the location of the meeting, as well as at the Department. These procedures ensure that meetings are announced sufficiently in advance to ensure attendance and that they are open and accessible to the public. Interpreters for persons who are deaf and other necessary services for both SICC members and participants are provided as requested.

#### Use of Funds by the Council (34 CFR 303.603)

Subject to the approval by the Governor, the Council may use Part C funds to:

- 1) Conduct hearings and forums;
- 2) Reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives);
- 3) Pay compensation to a member of the Council if the member is not employed or must forfeit wages from other employment when performing official Council business;
- 4) Hire staff; and,
- 5) Obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of the IDEA.

#### Compensation and expenses of Council Members

Except as provided above, Council members shall serve without compensation.

#### Functions of the Council--Required Duties (34 CFR 303.604)

The Council must advise and assist the lead agency in the performance of its responsibilities in the IDEA including:

- 1) Identification of sources of fiscal and other support for early intervention services under Part C of the IDEA;
- 2) Assignment of financial responsibility to the appropriate agency;
- 3) Promotion of methods (including use of intra-agency and interagency agreements) for intra-agency and interagency collaboration regarding child find, monitoring, financial responsibility and provision of early intervention services, and transition requirements;
- 4) Preparation of Part C applications and amendments to those applications; and,
- 5) Transition of toddlers with disabilities to preschool and other appropriate services.

The Council must prepare and submit an annual report to the Governor and to the United States Department of Education on the status of children with disabilities and their families in the Part C program operated within the State and submit the report to the United States Department of Education.

#### Authorized Activities (34 CFR 303.605)

- 1) Advise and assist the SEA regarding the provision of appropriate services for children with disabilities from birth through age five.
- 2) Advise appropriate agencies in the State with respect to the integration of services for children with disabilities and at-risk children and families, regardless of whether at-risk children are eligible for early intervention services in the State.

- 3) Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care for children, if applicable, and other State interagency early learning initiatives, as appropriate.

## **VII. COMPREHENSIVE CHILD FIND SYSTEM (34 CFR 303.302)**

The Department ensures that the Part C program includes a comprehensive child find system that is consistent with Part B of IDEA (34 CFR 300.111) and is coordinated with all other major efforts to locate and identify children by other State agencies responsible for administering the various education, health, and social service programs relevant to this part, including Indian tribes and tribal organizations that receive money under Part C of the IDEA, and other Indian tribes as appropriate. To ensure a comprehensive child find system, the Part C program coordinates with:

- 1) Part B of the IDEA;
- 2) Maternal and Child Health program, including the Maternal, Infant, and Early Childhood Home Visiting Program, under Title V of the Social Security Act;
- 3) Medicaid's Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program under Title XIX of the Social Security Act;
- 4) Developmental Disabilities Assistance and Bill of Rights Act of 2000;
- 5) Head Start Act (including Early Head Start programs under section 645A of the Head Start Act);
- 6) Supplemental Security Income program under Title XVI of the Social Security Act;
- 7) Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106(a));
- 8) Child care programs in the State;
- 9) The programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);
- 10) Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and,
- 11) CHIP authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

The Department, with the advice and assistance of the SICC, takes steps to ensure that there will not be unnecessary duplication of effort by the various State agencies involved in the Part C child find system, and the Part C program will make use of the resources available through each SPOE and provider to implement the child find system in an effective manner.

## **VIII. TRADITIONALLY UNDERSERVED GROUPS (34 CFR 303.227)**

The Department ensures that traditionally underserved groups, including minority, low-income, homeless and rural families, and children with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all requirements of Part C of the IDEA. This is achieved through member participation and collaboration on the SICC and regional interagency coordinating councils as well as through training and technical assistance to Service Coordinators and providers.

The Department also ensures that families have access to culturally competent services within their local geographical areas. This is achieved through provider recruitment and training.

## **IX. REFERRAL PROCEDURES (34 CFR 303.303)**

The Department's child find system for primary referral sources referring a child under the age of three to the Part C program includes referring a child as soon as possible, but in no case more than seven days after the child had been identified, and referring a child under the age of three who is the subject of a substantiated case of child abuse or neglect, or identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure. The Department's child find system also includes a referral to the Part C program, dependent upon parental consent, of a child under the age of three who directly experiences a substantiated case of trauma due to exposure to family violence, as defined in section 320 of the Family Violence Prevention and Services Act, 42 U.S.C. 10401 et seq.

Primary referral sources include:

- 1) Hospitals, including prenatal and postnatal care facilities;
- 2) Physicians;
- 3) Parents;
- 4) Child-care programs and early learning programs;
- 5) Local educational agencies (including special education and Parents as Teachers) and schools;
- 6) Public health facilities;
- 7) Other public health or social service agencies;
- 8) Other clinics and health care providers;
- 9) Public agencies and staff in the child welfare system, including child protective service and foster care;
- 10) Homeless family shelters; and,
- 11) Domestic violence shelters and agencies.

Once the SPOE receives a referral, it must appoint a Service Coordinator as soon as possible.

Within 45 days after receiving a referral, a SPOE must:

- 1) provide the parent with a prior written notice of intent to conduct an initial evaluation of the child to determine the child's eligibility for the Part C program and any additional assessments of the child prior to the initial IFSP meeting;
- 2) obtain informed, written parental consent to proceed;
- 3) facilitate the collection and review of existing documentation to complete the evaluation for eligibility; and,
- 4) schedule and facilitate an initial IFSP meeting.

The 45-day timeline does not apply for any period when:

- 1) The child or parent is unavailable to complete the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or
- 2) The parent has not provided consent for the initial evaluation or the initial assessment of the child, despite documented, repeated attempts by the SPOE to obtain parental consent.

If circumstances prevent the 45-day timeline from being met, the SPOE must:

- 1) Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the SPOE to obtain parental consent;
- 2) Complete the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family

- circumstances no longer exist or parental consent is obtained for the initial evaluation, and the initial assessment of the child; and,
- 3) Develop and implement an interim IFSP, to the extent appropriate.

The initial family assessment must be conducted within the 45-day timeline if the parent concurs, even if other family members are unavailable.

#### **X. STATE ELIGIBILITY CRITERIA (34 CFR 303.21)**

Children who are eligible for early intervention services are children between the ages of birth and 36 months who have been determined to have a diagnosed physical or mental condition associated with developmental disabilities, or a high probability of resulting in a developmental delay or disability, or children who have a developmental delay.

##### **A) State Definition of Diagnosed Conditions**

- 1) Newborn condition, for a child referred prior to 12 months of age with a birth weight less than 1,500 grams with one or more of the following conditions diagnosed at birth or within 30 days post birth:
  - APGAR of 6 or less at 5 minutes
  - Intraventricular hemorrhage (IVH) (Grade II, III, or IV)
  - Any Positive Pressure Ventilation greater than 48 hours, including ventilator or oscillator
  - Resuscitation/code-event requiring chest compressions
- 2) Diagnosed conditions, for a child referred prior to 36 months of age, include, but are not limited to, the following:
  - Autism Spectrum Disorders  
Autism, Pervasive Development Disorder-Not Otherwise Specified
  - Chromosomal Trisomy  
Down syndrome, Edwards Syndrome, Patau Syndrome
  - Craniofacial Anomalies  
Cleft Lip, Cleft Palate, Cleft Lip/Palate
  - Disorders of the Nervous System  
Cerebral Palsy, Encephalopathy, Epilepsy, Hydrocephalus, Infantile Spasms, Macro/Microcephalus, Periventricular Leukomalacia, Seizure Disorder, Shaken Baby Syndrome, Spina Bifida, Stroke, Traumatic Brain Injury
  - Disorders Related to Exposure to Toxic Substances  
Fetal Alcohol Syndrome, Lead Poisoning Level  $\geq 10 \mu\text{g/dL}$
  - Infections/Viruses/Bacteria  
Acquired Immune Deficiency Syndrome, Cytomegalovirus, Herpes, Rubella, Syphilis, Toxoplasmosis
  - Other Chromosomal Abnormalities  
Angelman Syndrome, Cri-du-Chat Syndrome, DiGeorge Syndrome, Fragile X Syndrome, Triple X Syndrome, Williams Syndrome
  - Other Genetic/Congenital/Metabolic Conditions  
Cyanotic Congenital Heart Disease, Hypoplastic Left Heart Syndrome, Muscular Dystrophy – Duchenne Type, Noonan Syndrome, Phenylketonuria (PKU), Pierre Robin, Tetralogy of Fallot
  - Sensory Impairments

- Blind, Deaf, Hard of Hearing, Visually Impaired
- Severe Attachment Disorders

3) Other Diagnosed Conditions, for a child referred prior to 36 months of age, include conditions known to be associated with developmental disabilities. In order for other diagnosed conditions to be considered for eligibility, there must be an informed clinical opinion provided by Board certificated neonatologists, pediatricians, geneticists, pediatric neurologists and/or other pediatric specialists. These physicians may refer a child by indicating the specific condition and documenting the potential impact of the condition in any of the five developmental areas.

B) State Definition of Developmental Delay (34 CFR 303.111 and 303.321)

A developmental delay, as measured by appropriate diagnostic measures and procedures emphasizing the use of informed clinical opinion, is defined as a child who is functioning at half the developmental level that would be expected for a child developing within normal limits and of equal age.

Informed clinical opinion may be used as an independent basis to establish eligibility even when other instruments do not establish eligibility at half the developmental level; however, when evaluation instruments establish eligibility at half the developmental level, informed clinical opinion may not be used to negate the results.

In the case of infants born prematurely, the adjusted chronological age, which is calculated by deducting one-half of the prematurity from the child's chronological age, should be assigned for a period of up to 12 months or longer if recommended by the child's physician.

A developmental delay must be identified in one or more of the following areas:

- cognitive development
- communication development
- adaptive development
- physical development, including vision and hearing
- social or emotional development

C) Services to At-Risk Children

It is the policy of the State of Missouri to not include children considered to be "at-risk" of having substantial developmental delays for eligibility in the Part C program.

D) Residency Requirements

- 1) A child must be a resident of the State of Missouri to receive Part C services from the Part C program. This means:
  - a child living with a parent as defined in Part C of the IDEA in the State of Missouri is considered a resident.
  - a child living in Missouri solely for the purpose of receiving Part C services is not considered a resident.
- 2) Citizenship or immigrant status is not a requirement of residency and cannot be used to deny Part C services to an eligible child and family.

## **XI. EVALUATION AND ASSESSMENT PROCEDURES (34 CFR 303.321)**

The Department ensures that the statewide system of early intervention includes the performance of a timely, comprehensive, multidisciplinary evaluation of each child, birth to age three, referred for evaluation and a family-directed assessment to identify the needs of each child's family to appropriately assist in the development of the child.

### Procedures for Evaluation of the Child (34 CFR 303.321 (b))

In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility. The evaluation of the child must include:

- 1) Administering an evaluation instrument;
- 2) Taking the child's history (including interviewing the parent);
- 3) Identifying the child's level of functioning in each of the developmental areas;
- 4) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and,
- 5) Reviewing medical, educational, or other records.

### Determination That a Child is Eligible (34 CFR 303.321(a)(3))

A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) if those records indicate that the child's level of functioning in one or more of the developmental areas constitutes a developmental delay or that the child otherwise meets the criteria for a child with a disability.

Qualified personnel must use informed clinical opinion when conducting an evaluation of the child and an initial assessment of the child. In addition, the lead agency must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under Part C of the IDEA even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

Unless clearly not feasible to do so, all evaluations and assessments of a child must be conducted in the native language of the child.

### Procedures for Initial Assessment of the Child (34 CFR 303.321 (c)(1))

Once the child's eligibility is established through an evaluation of the child or through the use of medical or other records, the initial assessment of the child must be conducted so that the child receives:

- 1) A review of the results of the evaluation of the child;
- 2) Personal observations of the child; and,
- 3) The identification of the child's needs in each of the developmental areas.

### Procedures for Assessment of the Family (34 CFR 303.321 (c)(2))

A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the

family's capacity to meet the developmental needs of the family's child. The family-directed assessment must:

- 1) Be voluntary on the part of each family member participating in the assessment;
- 2) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and,
- 3) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed.

An initial assessment of the child and the family assessment may occur simultaneously with the evaluation of the child, provided that both the child and family assessment requirements are met.

#### Procedures for Ongoing Assessment of the Child (34 CFR 303.321 (c)(1))

An ongoing assessment of each eligible child must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The ongoing assessment of the child must include:

- 1) A review of the results of the evaluation of the child;
- 2) Personal observations of the child; and,
- 3) The identification of the child's needs in each of the developmental areas.

#### Determination That a Child is not Eligible (34 CFR 303.322)

If the child is not eligible, a Notice of Action for Ineligibility and a Parental Rights Statement must be provided to the parents.

## **XII. INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP) (34 CFR 303.340 through 303.346)**

The Department ensures the development, review, and implementation of an IFSP that is developed by a multidisciplinary team, which includes the parent, for each eligible child.

#### Procedures for IFSP Development, Review and Evaluation (34 CFR 303.342)

##### Meeting to develop initial IFSP - Timelines

For a child referred to and subsequently found eligible for the Part C program, a meeting to develop the initial IFSP must be conducted within 45-days of referral.

##### Periodic review

The Department ensures that the IFSP for a child and the child's family is reviewed every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine the degree to which progress toward achieving the results or outcomes identified in the IFSP is being made, and whether modification or revision of the results, outcomes or services identified in the IFSP is necessary. Meetings or other means that are acceptable to parents and other participants may be used to conduct these reviews. If, as a result of the IFSP review, it is suggested that modifications or revisions to the outcomes or services are needed, then an IFSP team meeting must be held. Any modifications or revisions made as a result of the meeting shall be reflected in a new IFSP document.

#### Annual meeting to evaluate the IFSP

The Department ensures that a meeting is conducted at least annually to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any current evaluations and other information available from the assessments of the child and family must be used to determine what early intervention services are needed and will be provided.

#### Accessibility and convenience of meetings

The IFSP meetings must be conducted in settings and at times convenient for the family and in the native language of the family or other mode of communication used by the family, unless clearly not feasible to do so. Meeting arrangements must be made with, and written notification provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

#### Parental Consent for Early Intervention Services

The Department ensures that the contents of the IFSP are fully explained to parents and informed written consent from the parents is obtained prior to the provision of early intervention services described in the IFSP. To ensure the timely provision of service, each early intervention service must be provided as soon as possible after written parental consent for that service.

#### Participants in IFSP Meetings (34 CFR 303.340 and 303.343)

Each initial and annual IFSP meeting must include the following participants:

- 1) The parent or parents of the child;
- 2) Other family members, as requested by the parent(s) if feasible to do so;
- 3) An advocate or person outside of the family, if the parent requests that the person participate;
- 4) The intake coordinator who has been working with the family since the initial referral for evaluation and/or the Service Coordinator that has been designated responsible for the implementation of the IFSP;
- 5) A person or persons directly involved in conducting the evaluations and assessments; and,
- 6) As appropriate, service providers to the child and/or family.

If a person directly involved in conducting an evaluation and/or assessment is unable to attend the IFSP meeting, arrangements must be made for that person's involvement through other means, such as participation by telephone conference call or through pertinent records that are available at the meeting. A knowledgeable authorized representative may also attend the meeting as a substitute for the person unable to attend. This includes early intervention service providers who conduct ongoing assessments.

Each periodic review must include the following participants:

- 1) The parent or parents of the child;
- 2) Other family members, as requested by the parent(s) if feasible to do so;
- 3) An advocate or person outside the family, if the parent requests that the person participate; and,
- 4) The Service Coordinator that has been designated responsible for the implementation of the IFSP

If conditions warrant, provisions must be made for the participation of the following:



- 1) A person or persons directly involved in conducting the evaluations and assessments; and,
- 2) Service providers to the child and/or the family.

Content of the IFSP (34 CFR 303.344)

Each IFSP must contain the following components:

- 1) A statement of the child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based upon the information from that child's evaluation and assessments;
- 2) With the concurrence of the family, a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family;
- 3) A statement of the measureable results or measurable outcomes expected to be achieved for the child (including pre-literacy and language skills, as developmentally appropriate for the child) and family; and the criteria, procedures, and timelines used to determine:
  - a) the degree to which progress toward achieving the results or outcomes identified in the IFSP is being made, and
  - b) whether modifications or revisions of the expected results or outcomes, or services identified in the IFSP are necessary;
- 4) A statement of the specific early intervention services, based on peer-reviewed research to the extent practicable, that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes, including:
  - a) frequency and intensity, which means the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis;
  - b) method, which means how a service is provided (i.e., whether the service is provided through consultation, family education, direct service, and/or teletherapy);
  - c) length, which means the length of time the service is provided during each session of that service (such as an hour or other specified time period); and,
  - d) duration, which means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his or her IFSP);
- 5) A statement that each early intervention service is provided in the natural environment, to the maximum extent appropriate, for the child. The determination of the appropriate setting for providing early intervention services to the child, including any justification for not providing a particular early intervention service in the natural environment, must be made by the IFSP team (which includes the parent and other team members) and based on the child's outcomes. Only when early intervention services cannot be achieved satisfactorily in a natural environment is a justification required;
- 6) The location of services (the actual place or places where a service will be provided);
- 7) The payment arrangements, if any;
- 8) Other services needed, but not required by Part C of the IDEA. To the extent appropriate, the IFSP must:
  - a) identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded by Part C of the IDEA; and,

- b) if those services are not currently being provided, include a description of the steps the Service Coordinator or family may take to assist the child and family in securing those other services;
- 9) The projected dates for initiation of each early intervention service as soon as possible after the parent consents to that service;
- 10) The anticipated duration of each early intervention service;
- 11) The name of the Service Coordinator responsible for implementing the early intervention services identified in the child's IFSP, including transition services, and coordination with other agencies and persons;

The transition plan in the IFSP must contain the steps and services to be taken to support the transition of the child from Part C services to preschool services under Part B of IDEA to the extent that those services are appropriate, or to other appropriate services, (e.g., Parents as Teachers, Head Start, Child Care, Title I Preschool Programs, etc.). The steps for transition must include:

- a) discussions with, and training of parents, as appropriate, regarding future placements and other matters related to the child's transition;
- b) procedures to prepare the child for changes in service delivery including steps to help the child adjust to and function in, a new setting;
- c) confirmation that child find information about the child has been transmitted to the LEA or other relevant agency;
- d) with written parental consent, transmission of other information about the child to the LEA, to ensure continuity of services, including a copy of the most recent evaluation and assessments of the child and family and most recent IFSP; and,
- e) identification of transition services and other activities that the IFSP Team determines are necessary to support the transition of the child.

#### Interim IFSP- Provision of Services Before Evaluation and Assessment are Completed (34 CFR 303.345)

Early intervention services for an eligible child and the child's family may begin before the completion of the evaluation and assessment if the following conditions are met:

- 1) Informed, written parental consent is obtained;
- 2) An interim IFSP is developed that includes:
  - a) the name of the Service Coordinator who will be responsible for implementing the interim IFSP and coordinating with other agencies and persons, and
  - b) the early intervention services that have been determined to be needed immediately by the child and the child's family; and,
- 3) The evaluation and assessment are completed within 45 calendar days of referral.

#### Responsibility and Accountability (34 CFR 303.346)

Each participating agency who has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. However, Part C of the IDEA does not require that any participating agency be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

### **XIII. TRANSITION TO PRESCHOOL AND OTHER PROGRAMS (34 CFR 303.209)**

The Department has developed the following policies and procedures to ensure a smooth and effective transition from Part C services to Part B services for children with disabilities at age

three. For specific policies and procedures on transition from the Part C program to the Part B program, see Missouri's intra-agency agreement between Part C and Part B of IDEA.

#### SEA Notification

To ensure a smooth transition from the Part C program to the Part B program, lead agency staff notifies Part B staff of all children who may be eligible for Part B services in accordance with the procedures outlined in the Missouri intra-agency agreement between Part C and Part B of IDEA.

#### LEA Notification

In Missouri, all children in the Part C program are considered to be potentially eligible for Part B services.

If the SPOE determines a child is eligible for the Part C program 90 days or more before the child's third birthday, the Service Coordinator notifies the LEA in which the child lives, not fewer than 90 days before the child's third birthday, that the child is approaching three years of age and may be eligible for early childhood special education services under Part B of IDEA, unless the parent objects according to the opt out policy. Notification occurs when directory information (child's name and birth date, and parent's name, address, and telephone number) is sent to the LEA.

If the SPOE determines a child is eligible for the Part C program more than 45 but less than 90 days before the child's third birthday, as soon as possible after determining the child's eligibility, the Service Coordinator notifies the LEA in which the child lives that the child is approaching three years of age and may be eligible for early childhood special education services under Part B.

If a child is referred to the Part C program fewer than 45 days before the child's third birthday, the SPOE is not required to conduct an evaluation, assessment, or an initial IFSP meeting. However, parental consent is required before the Service Coordinator notifies the LEA in which the child lives.

#### Opt Out Policy

The Department gives the parent a specified time period to object to the Service Coordinator providing directory information to the LEA. The time period aligns with the transition plan timeline of no fewer than 90 days before the child's third birthday unless the child is a late referral, and in such case, the time period is on or before the transition plan meeting.

The Service Coordinator explains directory information/opt out to the parent when preparing to schedule the transition plan meeting, unless the parent requests the notification to LEA beforehand. If the parent requests to opt out of sending directory information to the LEA, the Service Coordinator provides the Directory Information/Opt Out Information form to the parent prior to the transition plan meeting. The parent has until the transition plan meeting to return the Directory Information/Opt Out Information form to the Service Coordinator or directory information will be sent to the LEA at the transition plan meeting. Upon receiving the parent's written objection no later than the transition plan meeting, the Service Coordinator will not send directory information to the LEA.

The parent is informed that failure to send directory information to the LEA fewer than 90 days before the child's third birthday may result in a gap in services if the child is eligible for Part B.

The parent is also informed that, if after opting out initially, the parent later wants the Service Coordinator to send directory information to the LEA, the parent must contact the Service Coordinator immediately.

#### Transition Conference with LEA

The Department ensures that a transition conference with the LEA is held, with family approval, not fewer than 90 days and, at the discretion of all parties, not more than nine months before the child's third birthday. The purpose of the transition conference with LEA is to explain: the differences between Part C and Part B; the process the LEA will complete to determine the child's eligibility for services under Part B; and, if eligible, any services the child may receive under Part B of the IDEA; and provide LEA personnel contact information.

The transition conference with LEA is an IFSP meeting and must meet the IFSP requirements for accessibility and convenience of meetings, parental consent for early intervention services and participants in IFSP meetings as described under Section XII. With family approval LEA personnel must be invited to the transition conference.

#### Transition Plan Meeting

For all children participating in the Part C program, the Department ensures that a transition plan meeting is held not fewer than 90 days and, at the discretion of all parties, not more than nine months before the child's third birthday. The purpose of the transition plan meeting is to review the program options for the child after the child turns three years of age and to discuss the transition steps and services in the IFSP.

The transition plan meeting is an IFSP meeting and must meet the IFSP requirements for accessibility and convenience of meetings, parental consent for early intervention services and participants in IFSP meetings as described under Section XII. The family must be included in the development of the transition plan in the IFSP. The transition plan includes the steps for the child and family to exit from the Part C program to Part B of the IDEA or other services that the IFSP team identifies, as appropriate, for the child and family.

The steps in the transition plan must include, at a minimum, the following:

- 1) Confirmation that directory information has been provided to the LEA; and,
- 2) Confirmation of the provision of additional information needed by the LEA to ensure continuity of service from the Part C program, with parental consent, including:
  - a) the most recent IFSP; and,
  - b) a copy of the most recent evaluations and assessments of the child and family.

#### Combining Transition Plan Meeting and Conference with LEA

The transition plan meeting and conference with LEA may be combined into one meeting, however, all the requirements listed under the Transition Plan Meeting and Transition Conference with LEA must be addressed.

#### Late Referrals

For children referred to the Part C program less than 135 days before the child's third birthday, and subsequently found eligible for Part C, the requirements for holding a transition plan meeting and transition conference with LEA depend upon the age of the child when referred.

For children referred to the Part C program less than 135 days but 90 days or more prior to the child's third birthday, the transition plan meeting and transition conference with LEA must be held as part of the initial IFSP meeting.

For children referred to the Part C program less than 90 but 45 days or more prior to the child's third birthday, the transition plan must be held as part of the initial IFSP but the transition conference with LEA is not required.

For children referred to the Part C program less than 45 days from the child's third birthday, the transition plan meeting and transition conference with LEA are not required.

Part C Extension for Children with Summer Third Birthdays (34 CFR 303.211 and 303.501(d))

The Department has developed policies and procedures to alleviate any gaps in services for children who may transition from Part C to Part B. Depending on where the child's birth date falls in a calendar year, the following provisions apply to children in the Part C program:

Birthdays on April 1 through August 15

In Missouri, parents of a child determined eligible for both Part C and Part B, and who has a third birthday on April 1 through August 15, may choose to: (1) continue Part C services until the initiation of the local district's school year following the child's third birthday, or (2) transition to Part B to receive early childhood special education and related services upon the child's third birthday. If the child's Part B eligibility determination is in process, Part C services as identified in the child's IFSP must continue beyond age three until the child's eligibility for Part B is determined. This provision does not apply if the LEA has requested parental consent for the initial evaluation and the parent has not provided that consent. If the child is found ineligible for Part B, Part C services will end upon the child's third birthday or upon the LEA's determination of ineligibility if the child is over age three.

All requirements for the Transition Plan Meeting and Transition Conference with LEA described above are applicable to children with summer third birthdays. If the parent opts out of sending directory information to the LEA, Part C Extension is not available and the Service Coordinator informs the parent that Part C services end upon the child's third birthday.

The Service Coordinator notifies the parents of their options for services over age three through written and verbal information at the Transition Plan Meeting or Transition Conference with LEA. Written information provided to the parents includes a description of the parent's right to choose to: (1) continue Part C services until the initiation of the local district's school year following the child's third birthday, or (2) choose to transition to Part B upon the child's third birthday. Written information provided to the parents also includes an explanation of the differences between Part C and Part B procedural safeguards and services, in accordance with 303.211(b)(1)(ii)(A through C), as follows:

Services	Extended Part C at age three	Part B at age three
Types	Early intervention services are identified by the IFSP team, which includes the parent, and designed to meet the	Special education services are identified by the Individualized Education Program (IEP) team, which includes the parent. Services are available throughout the school-year,

	developmental needs of a child with a disability. Services are available throughout the calendar year.	however, the IEP must include a statement indicating the child's eligibility or ineligibility for Extended School Year services.
Location	Early intervention services are delivered in the child's natural environment, including home and community settings, to the maximum extent appropriate.	Special education and related services are provided in the least restrictive environment, to the maximum extent appropriate. Removal of children with disabilities from the regular educational environment only occurs when the nature or severity of the disability is such that education in regular classrooms with use of supplementary aids and services cannot be achieved satisfactorily.
Procedural Safeguards	State regulations under Part C detail the rights of children and parents who participate in First Steps.	State regulations under Part B detail the rights for all parties involved in the education of students with disabilities.
Cost	Families pay a monthly fee for early intervention services delivered through an IFSP, except services provided at no-cost. See Section XVIII System of Payments.	Special education and related services are at no cost to the parent and designed to provide a Free Appropriate Public Education (FAPE) through an IEP.

Parents who choose the option to continue Part C services must provide consent, which may be obtained as early as the Transition Plan Meeting or Transition Conference with LEA but no later than the child's third birthday. Once parent consent is obtained, the Service Coordinator must hold a Summer Third Birthday IFSP meeting by the child's third birthday.

Parents are informed the Summer Third Birthday IFSP must include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills. Parents of children who continue Part C services have the right, at any time, to receive Part B services instead of Part C services. However, the LEA is not required to provide a FAPE under Part B for the period of time a child is receiving services through the Part C Extension.

Parents who choose the option to transition to Part B have the right for their child with a summer third birthday to receive a FAPE through an IEP upon the child's third birthday. Parents who choose Part B services cannot later choose to return to Part C services once consent for Part B services is obtained and the child has turned three.

Extended Part C services are paid for with state general revenue, federal Part C, federal Medicaid, private insurance and family cost participation. See Section XVII Fiscal Administration for Use of Funds and Section XVIII System of Payments.

#### Birthdays on August 16 through March 31

The Service Coordinator informs parents of children with birthdates on August 16 through March 31 that Part C services end upon the child's third birthday. If eligible for Part B, the child will

transition to Part B and receive early childhood special education and related services upon the child's third birthday.

#### **XIV. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT (CSPD) (34 CFR 303.118)**

The Department has developed a CSPD plan that includes the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State. The CSPD plan includes:

- 1) Training personnel to implement innovative strategies and activities for the recruitment and retention of early intervention providers;
- 2) Promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services;
- 3) Training personnel to coordinate transition services for children from the early intervention system under Part C of the IDEA to preschool services under section 619 of Part B, Head Start, Early Head Start, or to other appropriate programs;
- 4) Training personnel to work in rural and inner city areas; and,
- 5) Training personnel to support families in participating fully in the development and implementation of the child's IFSP.

#### **XV. PERSONNEL STANDARDS (34 CFR 303.119)**

The Department is responsible for establishing a centralized process for provider enrollment. The purpose of the provider enrollment procedures is to include appropriately and adequately prepared and trained personnel necessary to carry out the Part C of the IDEA requirements. Personnel must meet entry level standards in a specific profession or discipline and complete an initial module training prior to enrollment as an early intervention provider. Additionally, provider enrollment procedures include a criminal background and fingerprint check, insurance liability coverage and proper licensing and credentialing standards. Upon successful enrollment, providers have a specified timeline for completion of additional module trainings in order to continue to deliver services.

The Department ensures early intervention providers are qualified through the administration of personnel standards that are consistent with State approved or recognized certification, licensing, registration, or other comparable requirements that the State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in the State.

The Department utilizes paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy to assist in the provision of early intervention services under Part C of the IDEA to children with disabilities.

The Department ensures all personnel must meet the following qualifications in order to deliver services as an early intervention provider:

#### ***PERSONNEL STANDARDS***

<b>TITLE</b>	<b>RESPONSIBILITIES</b>	<b>EDUCATIONAL QUALIFICATIONS AND TRAINING REQUIREMENTS</b>	<b>CERTIFICATES OR LICENSE</b>	<b>PROVIDER RATE SCHEDULE</b>
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ABA Implementer	Implements ABA instruction	High school graduate or GED First Steps Module Training 1	Must have ongoing supervision and training by an ABA consultant	Natural Environment rate of \$6.25 per unit. Non-natural Environment rate is \$4.25 per unit.
ABA Consultant	Provides direct service to families and children, provides consultation with others, assists with assessing and understanding behaviors, writes reports, and attends IFSP meetings. May design and facilitate intense behavioral programming as identified in a child's IFSP. May train ABA implementers in instructional techniques such as discrete trial training.	Bachelors or Masters degree First Steps Module Training 1-4	Behavior Analyst License issued by the State Committee of Psychologists; OR National or State Certification in Applied Behavior Analysis; OR Documentation of specific training in ABA with application to young children and experience in designing and implementing an ABA program with young children with autism spectrum disorders.	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Assistive Technology Provider	Obtains assistive technology devices identified in a child's IFSP, whether acquired commercially off the shelf, modified, or customized.	Documentation of an established assistive technology/ durable medical equipment business.	Identified by the IFSP team and approved by the Department prior to obtaining devices.	Actual cost of device.
Audiologist	Plans and implements screening, evaluation/diagnosis, and early intervention services for children who are deaf/hearing impaired.	Masters Degree	License issued by the State Board of Registration for the Healing Arts	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Counselor, Licensed Professional	Provides individual and group counseling techniques, direct service to families and children, provides consultation with	Masters Degree First Steps Module Training 1-4	License issued by the Committee for Professional Counselors	Natural Environment rate of \$17 per unit. Non-natural Environment



	others, assists with assessing and understanding behaviors, conducts psychological assessments, writes reports, and attends IFSP meetings.			rate is \$15 per unit.
Dietitian	Provides direct service to families and children, provides consultation with others, conducts individualized nutritional assessments, writes reports, develops nutritional plans, and attends IFSP meetings.	Bachelors Degree and internship First Steps Module Training 1-4	License issued by the State Committee of Dietitians	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Interpreter for the Deaf	Facilitates communication for individuals who are deaf/hearing impaired.	High school diploma or GED	Intermediate certificate issued by the Commission for the Deaf and license issued by the Division of Professional Registration	\$15 per unit.
Nurse, LPN	Provides health services under the direction of an RN or Physician.	Diploma from accredited LPN program One year course of study in practical nursing First Steps Module Training 1, 3, 4	License issued by the State Board of Nursing	Natural Environment rate of \$15 per unit. Non-natural Environment rate is \$13 per unit.
Nurse, RN	Provides screening, evaluation, and diagnostic health information. Provides health services to families and children, consultation with others, and attends IFSP meetings.	Associates Degree First Steps Module Training 1-4	License issued by the State Board of Nursing	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Occupational Therapist	Provides direct service to families and children, provides consultation with others, conducts individualized assessments, writes reports, and attends IFSP meetings.	Bachelors Degree (prior to January 1, 2008) Masters Degree (effective January 1, 2008) First Steps Module Training 1-4	License issued by the Missouri Board of Occupational Therapy	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Occupational	Provides occupational	Associate of Arts Degree	License issued by the	Natural

Therapy Assistant/COTA	therapy services under the direction of an enrolled First Steps Occupational Therapist.	First Steps Module Training 1, 3, 4	Missouri Board of Occupational Therapy	Environment rate of \$15 per unit. Non-natural Environment rate is \$13 per unit.
Ophthalmologist	Provides optical services for evaluation and diagnostic purposes only. May assist in planning and implementing early intervention services for children with disabilities.	Medical Degree	Physician license issued by the Missouri Board of Healing Arts, and Certification from the American Board of Ophthalmology	Actual cost of service.
Optometrist	Administers vision tests, participates on evaluation teams, provides vision services to eligible children with disabilities as specified on the IFSP, conducts consultation with others, and assists in planning and implementing early intervention.	Graduate of Approved School of Optometry	License issued by Missouri Board of Optometry	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Orientation and Mobility Specialist	Provides orientation and mobility services.	Bachelors Degree with specialization in orientation and mobility, teaching the blind and visually impaired, rehabilitation teaching, special education, occupational therapy, physical therapy or closely related area. First Steps Module Training 1-4	Certified by the Association for Education and Rehabilitation (AER) OR Demonstrated proficiency in O&M as required by a current contract with Rehabilitation Services for the Blind OR Visually Impaired Certification by the State Board of Education	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Other Early Intervention provider	Any trained professional not identified above, who is deemed an appropriate service provider for an IFSP service	Academic preparation in the intervention area or job related experience in the intervention area.	Identified by the IFSP team and approved by the Department prior to conducting services.	EI Examiner rate of \$200 per test.

Paraprofessional in Early Intervention	Assists with the implementation of IFSPs under the direction of an enrolled Special Instructor, Speech Language Pathologist, Occupational Therapist or Physical Therapist.	High school diploma or GED First Steps Module Training 1	Must have ongoing supervision and training under the direction of designated supervisor.	Natural Environment rate of \$6.25 per unit. Non-natural Environment rate is \$4.25 per unit.
Parent Advisor for children with sensory impairments	Provides parent education for parents of children who are blind, visually impaired, deaf or hard of hearing.	Bachelors Degree First Steps Module Training 1-4	Successful completion of parent education for parents of children with sensory impairments provided through the Missouri School for the Deaf and/or Missouri School for the Blind	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Physical Therapist	Provides direct service to families and children, provides consultation with others, conducts individualized assessments, writes reports, and attends IFSP meetings.	Bachelors Degree (prior to December 31, 2002) Masters Degree (effective December 31, 2002) First Steps Module Training 1-4	License issued by the State Board of Registration for the Healing Arts	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Physical Therapist Assistant/PTA	Provides Physical Therapy services under the direction of an enrolled First Steps Physical Therapist.	60 hours prescribed course of study, Associates Degree First Steps Module Training 1, 3, 4	License issued by State Board of Registration for the Healing Arts	Natural Environment rate of \$15 per unit. Non-natural Environment rate is \$13 per unit.
Physician	Provides medical services for evaluation and diagnostic purposes only. May assist in planning and implementing early intervention services for children with disabilities.	Medical Degree	Physician licensed by the State Board of Registration for the Healing Arts	Actual cost of service.
Psychologist	Administers psychological tests, provides psychological services to family and child, and assists in planning and	Masters Degree First Steps Module Training 1-4	License issued by the State Committee of Psychologists	Natural Environment rate of \$17 per unit. Non-natural Environment

	implementing early intervention services.			rate is \$15 per unit.
Service Coordinator	Conducts the family assessment, collects information on the child's development, coordinates evaluation/assessments, facilitates the IFSP meeting, coordinates and monitors delivery of early intervention services, informs families of advocacy services, coordinates with medical and health providers, facilitates transition from the First Steps Program.	Bachelors or Masters Degree in one of the following (with one year documented experience working with families): <ul style="list-style-type: none"> <li>• Early Childhood Special Education</li> <li>• Early Childhood Elementary Education</li> <li>• Special Education</li> <li>• Child/Human Development</li> <li>• Social Work</li> <li>• Nursing</li> <li>• Psychology</li> <li>• Education Administration</li> <li>• Sociology</li> <li>• Family Science/Studies</li> <li>• Counseling</li> </ul> First Steps Module Training 1-5	None required	Employee of the SPOE, not paid per unit.
Social Worker, Licensed Clinical	Conducts individualized evaluation/assessment, diagnostic, and counseling methods or techniques to families and children, consults with providers in the prevention and identification of mental or social emotional conditions, and attends IFSP meetings.	Masters Degree First Steps Module Training 1-4	License issued by Missouri State Committee for Social Workers	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Speech Language Pathologist	Provides direct service to families and children, conducts consultation with others, conducts individualized assessments, writes reports, and attends IFSP meetings.	Masters Degree First Steps Module Training 1-4	License issued by the State Board of Registration for the Healing Arts	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.

Speech Language Pathologist (Provisional)	Provides Speech Language services under the supervision of a licensed Speech Language Pathologist.	Masters Degree First Steps Module Training 1-4	Provisional license issued by State Board of Registration for the Healing Arts	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Speech Language Pathology Assistant/SLPA	Provides Speech Language services under the direction of an enrolled First Steps Speech Language Pathologist.	Bachelors Degree First Steps Module Training 1, 3, 4	Registration issued by the State Board of Registration for the Healing Arts	Natural Environment rate of \$15 per unit. Non-natural Environment rate is \$13 per unit.
Special Instructor	Provides direct service to families and children, provides consultation with others, conducts individualized assessments, writes reports, and attends IFSP meetings.	<p>Bachelors or Masters Degree in one of the following (with one year documented experience working with children with disabilities 0-5 and their families):</p> <ul style="list-style-type: none"> <li>• Child/Human Development</li> <li>• Special Education</li> <li>• Elementary Education</li> <li>• Education Administration</li> <li>• Early Childhood</li> <li>• Early Childhood Special Education</li> </ul> <p>Degree in one of the following (with three years documented experience working with children with disabilities 0-5 and their families):</p> <ul style="list-style-type: none"> <li>• Psychology</li> <li>• Sociology</li> <li>• Social Work</li> <li>• Family Science/Studies</li> <li>• Nursing</li> </ul> <p>First Steps Module Training 1-4</p>	None required	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.

Special Instructor – Deaf/Hard of Hearing  Special Instructor – Blind/Partially Sighted	Provides direct service to families and children, provides consultation with others, conducts individualized assessments, writes reports, and attends IFSP meetings.	Bachelors Degree First Steps Module Training 1-4	Special Education certification issued by the State board of education in Deaf and Hearing Impaired or Blind and Partially Sighted	Natural Environment rate of \$17 per unit. Non-natural Environment rate is \$15 per unit.
Translator	Provides information to parents in the native language and to providers as identified in the child’s IFSP.	High school diploma or GED and academic preparation or job related experience in the specified foreign language.	Identified by the IFSP team and approved by the Department prior to conducting translations.	\$15 per unit.

#### Policy to Address Shortage of Personnel

The Department makes ongoing good faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to eligible children. However, when an appropriately and adequately trained person cannot be located, such as a geographic area of the State with a shortage of personnel that meet the qualifications, the most qualified person available who is making satisfactory progress toward completing applicable course work necessary to meet the personnel standards may be recruited, on the condition that the qualifications are completed within two years from the date of recruitment.

#### Policy for Personnel Delivering Transdisciplinary Services

The Department utilizes a transdisciplinary approach to delivering services to children and families in the Part C program. While the Department is responsible for a centralized provider enrollment, the SPOE is responsible for the designation of regional provider teams of qualified personnel that ensures services are available throughout the region. IFSP services are provided to children and families in the Part C program through a primary provider approach that utilizes members from the regional provider teams. The appropriate types, amounts and methods (i.e., consultation, family education, direct service, and/or teletherapy) for delivering early intervention services to the family are determined by the IFSP team. Providers must follow the requirements of the licensing board for their discipline in determining the method to deliver services and take action to ensure confidentiality when providing services to children and families in the Part C program.

#### Policy to Reimburse Personnel

The Department is responsible for payment to enrolled personnel delivering services in accordance with the personnel standards and as authorized in a child’s IFSP. The Department provides a one-unit payment for a no-show visit, where the qualified personnel attempted to deliver the service in accordance with the IFSP; however, the parent or caregiver was not present at the time of arrival to the natural environment identified for services in the IFSP.

In addition to the rate of service, the Department reimburses mileage for qualified personnel delivering services to children in the Part C program. The established mileage rate is 47 cents per mile or the state rate, whichever is higher. In order to promote delivering services to underserved

populations, including families in rural areas, the Department reimburses a travel incentive in addition to mileage. For qualified personnel traveling 60 or more miles between the official domicile and the natural environment identified for services in the IFSP, the Department reimburses a travel rate equal to the provider hourly rate for one-way travel to the child's natural environment.

#### **XVI. PARENTAL RIGHTS (PROCEDURAL SAFEGUARDS) (34 CFR 303.400 through 303.438 and 303.449)**

The Department is responsible for establishing a parental rights statement that meet the requirements, of Part C of the IDEA including the provisions on confidentiality, parental consent and notice, educational surrogate, and dispute resolution procedures. The Department ensures effective implementation of the parental rights by each participating agency in the State involved in the provision of early intervention services.

The Department makes available to parents an initial copy of the child's early intervention record, at no cost to the parents.

##### Confidentiality (34 CFR 303.401 through 303.417)

The Department ensures that the parents of a child referred are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies.

In accordance with the protections in Family Educational Rights and Privacy Act (FERPA) at 20 U.S.C. 1232g and 34 CFR part 99, the Department ensures that parents of children who are referred to, or receive services are given the opportunity to inspect and review all early intervention records about the child and the child's family that are collected, maintained, or used, including records related to evaluations and assessments, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any other part of the child's early intervention record.

It is the policy of the Department that all information collected and maintained by agencies responsible for the provision of early intervention services for children with disabilities are protected to ensure the confidentiality of all such information consistent with the specific procedures established in this section.

The confidentiality procedures described in this section apply to the personally identifiable information of a child and the child's family that:

- 1) Is contained in early intervention records collected, used, or maintained under Part C of the IDEA by the lead agency or a provider; and
- 2) Applies from the point in time when the child is referred for early intervention services until the participating agency is no longer required to maintain or no longer maintains that information.

To identify all children potentially eligible for services under Part B of the IDEA, the Department discloses to the LEA where the child resides, the following personally identifiable information:

- 1) A child's name;
- 2) A child's date of birth; and,
- 3) Parent contact information (parents' names, addresses, and telephone numbers).

The Department informs parents of eligible children of the intended disclosure to the LEA and allows the parents a specified time period to object to the disclosure in writing. If a parent objects during the time period, the Department will not disclose the personally identifiable information.

#### Notice to Parents about Confidentiality (34 CFR 303.404)

The Department gives notice to the parent about the confidentiality requirements when a child is referred to the Part C program. The notice includes:

- 1) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the Department intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- 2) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information;
- 3) A description of all the rights of parents and children regarding this information, including their rights under the Part C confidentiality provisions; and,
- 4) A description of the extent that the notice is provided in the native languages of the various population groups in the State.

#### Access Rights (34 CFR 303.405)

Upon parent request, each SPOE must permit parents to inspect and review any early intervention records relating to their child that are collected, maintained, and used by the Part C program without unnecessary delay and before any meeting regarding an IFSP or hearing relating to the identification, evaluation, placement or provision of early intervention services and, in no case, more than 10 calendar days after the request has been made. The right to review and inspect records includes:

- 1) the right to a response from the SPOE to reasonable requests for explanations and interpretations of the records;
- 2) the right to request that the SPOE provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and,
- 3) the right to have a representative of the parent inspect and review the records.

The SPOE may presume that the parent has authority to inspect and review records relating to the child unless the SPOE has been provided documentation that the parent does not have the authority under applicable State laws governing such matters as custody, foster care, guardianship, separation, and divorce.

#### Record of Access (34 CFR 303.406)

Each SPOE must maintain a record of all parties obtaining access to early intervention records collected, maintained or used under Part C of IDEA (except access by parents and authorized representatives and employees of the participating agency). The record includes:

- 1) name(s) of party;
- 2) the date access was given; and,
- 3) purpose for which the party is authorized to use the early intervention records.

The record of access shall be maintained in each file of each child that contains confidential information. The SPOE must maintain a list of those employees who have access to early



intervention records and maintain the list in a central location. Only employees of the SPOE who have a legitimate need to access education records must be included on the list.

Records on More Than One Child (34 CFR 303.407)

If any early intervention record includes information on more than one child, the SPOE must allow parents to inspect and review only the information relating to their child or to be informed of that specific information.

List of Types and Locations of Information (34 CFR 303.408)

Each SPOE must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the Part C program.

Fees for Records (34 CFR 303.409)

Each SPOE may charge a fee for copies of records which are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, but may not charge a fee to search for or to retrieve information. As soon as possible after each IFSP meeting, the SPOE must provide at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP related to that IFSP meeting.

Amendment of Records at Parent's Request (34 CFR 303.410)

A parent who believes that information in the early intervention records collected, maintained or used under Part C of the IDEA is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request the SPOE amend the information.

The SPOE must reach a decision regarding the request within a reasonable period of time after receipt of the request to amend records. If the SPOE agrees to the requested amendment, the records in question shall be amended as agreed to. If the SPOE refuses the request for an amendment, the SPOE must inform the parent of the refusal and advise the parent of their right to a hearing.

Opportunity for a Hearing (34 CFR 303.411)

Upon parent request, the Department must provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents.

Result of Hearing (34 CFR 303.412)

If, as a result of the hearing, the Department decides that the information is inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, the SPOE must amend the information accordingly and so inform the parent in writing.

If, as a result of the hearing, the Department decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, the SPOE must inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reason for disagreeing with the decisions of the SPOE. Any explanation placed in the records of the child must be maintained by the SPOE as a part of the child's records as long as the record or contested portion is maintained by the SPOE. If the record of the child or the contested portion is disclosed by the SPOE to any party, the explanation must also be disclosed to the party.

#### Hearing Procedures (34 CFR 303.413)

Any hearing that is held must be conducted according to the procedures in FERPA at 34 CFR 99.22.

#### Consent Prior to Disclosure or Use (34 CFR 303.414)

The Department and the SPOE cannot disclose personally identifiable information to any party except participating agencies without parental consent, unless authorized to do so for LEA notification or as authorized in FERPA at 34 CFR 99.

Written consent from the parent must be obtained before any personally identifiable information is:

- 1) disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining or using the information; or,
- 2) used for any purpose other than Part C of the IDEA.

If the parent does not provide consent to disclose personally identifiable information, the SPOE must make reasonable efforts to ensure that the parent is fully aware that failure to provide consent may affect the child's ability to receive services under Part C of the IDEA.

#### Protection of Confidentiality (34 CFR 303.415)

Each SPOE must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages.

To assure protection, the SPOE must:

- 1) appoint one official at each SPOE to be responsible for ensuring the confidentiality of any personally identifiable information;
- 2) provide training or instruction to all persons collecting or using personally identifiable information in the Department's policies and procedures governing such information; and,
- 3) maintain, for public inspection, a current list of the names and positions of those employees within the SPOE who may have access to personally identifiable information.

#### Destruction of Information (34 CFR 303.416)

Destruction of information means physical destruction of the record or ensuring that personal identifiers are removed from information so that the record is no longer personally identifiable. The SPOE must inform parents when personally identifiable information collected, maintained, or used by the Part C program is no longer needed to provide early intervention services to the child. The Part C program maintains early intervention records for a minimum of three years from the date the child no longer receives early intervention services. The record is destroyed at the request of the parent as long as the record is not needed to provide early intervention services; however, parents are informed that a permanent record containing the child's name, date of birth, parent address and phone number, the Service Coordinator's name, providers' names, and exit data may be retained without time limitation.

#### Enforcement (34 CFR 303.417)

The Department, through the enforcement of policies and procedures, ensures that each participating agency receiving and/or eligible for federal funds follows all confidentiality provisions in accordance with Part C of the IDEA.

### Parental Consent and Notice (34 CFR 303.420 through 303.421)

#### Parental consent and ability to decline services (34 CFR 303.420)

The Department ensures that written parental consent is obtained before:

- 1) Conducting all evaluations and assessments of a child;
- 2) Providing early intervention services to the child;
- 3) Using public insurance or private insurance; and,
- 4) Disclosing personally identifiable information.

If the parent does not give consent (or withdraws consent after first providing it), the SPOE must make reasonable efforts to ensure that the parent:

- 1) Is fully aware of the nature of the evaluation and assessment of the child or the services that would be available; and,
- 2) Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.

The parent of an eligible child determines if they, their child, or other family members will accept or decline any early intervention service, and may decline a service after first accepting it, without jeopardizing other early intervention services.

The Department may not use the due process hearing procedures to challenge a parent's refusal to provide any consent.

If parent's failure to give consent would constitute neglect as defined in the Child Abuse and Neglect Laws of Missouri, Section 210.110 RSMo, a report should be made by the SPOE to the proper authorities.

#### Prior written notice and parental rights (34 CFR 303.421)

Prior written notice must be provided to parents a reasonable time before the SPOE proposes, or refuses, to initiate or change the identification, evaluation, or placement of their child, or the provision of early intervention services to the eligible child and child's family.

#### Content of the notice

The notice must be in sufficient detail to inform the parents about:

- 1) The action being proposed or refused;
- 2) The reasons for taking the action; and,
- 3) All parental rights that are available, including a description of mediation, how to file a child complaint and/or a due process complaint and any timelines under those procedures.

#### Notice in native language

The notice must be written in language understandable to the general public and be provided in the parent's native language or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the SPOE must take steps to ensure that:

- 1) the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
- 2) the parent understands the notice; and,
- 3) there is written evidence that the requirements of this section have been met.

#### Educational Surrogate (Surrogate Parents) (34 CFR 303.422)

The Department utilizes the following procedures for the use of educational surrogates:

##### Identifying the need for appointment

Any person may advise the agency responsible for providing early intervention services to a child with a disability that a child with a disability within its jurisdiction may be in need of a person to act as an educational surrogate. Notice can be given to the SPOE or directly to the Office of Special Education, Missouri Department of Elementary and Secondary Education.

##### Process of appointment

When the SPOE is informed of a child with disabilities living within its jurisdiction, it shall, within 30 days, determine whether an educational surrogate should be appointed. A request for the appointment of an educational surrogate shall be made within 10 days to the Office of Special Education. The Office of Special Education, must, within 30 days, appoint a person to act as an educational surrogate. The Office of Special Education shall maintain a registry of trained educational surrogates from which they will select individuals for appointment. If an educational surrogate dies, resigns, or is removed, within 15 days thereof, a replacement will be appointed.

##### Criteria for appointment

The Office of Special Education must appoint a person to act as a educational surrogate for the parent or guardian of a child with a disability as defined in Section 162.675, RSMo, to ensure that the rights of a child are protected when:

- 1) No parent can be identified;
- 2) The SPOE, after reasonable efforts, cannot locate a parent; or,
- 3) The child is a ward of the State according to State law.

For children who are wards of the State or placed in foster care, the SPOE must consult with the agency that has been assigned care of the child. In the case of a child who is a ward of the State, the educational surrogate, instead of being appointed by the Department may be appointed by the judge overseeing the child's case provided that the educational surrogate meets the requirements of an educational surrogate as outlined by the Department.

##### Qualifications for appointment

Any person who is appointed to act as an educational surrogate shall:

- 1) be at least 18 years of age;
- 2) not be an employee of any State agency or a person or an employee of a person providing early intervention services to the child or to any family member of the child (a person otherwise qualified to be an educational surrogate is not an employee of the Department solely because he or she is paid by the Department to serve as an educational surrogate);
- 3) be free from any interest that may conflict with the interests of the child represented; and,
- 4) have knowledge and skills that ensure adequate representation of the child.

#### Educational surrogate training

All educational surrogates must participate in a training session in which they become familiar with the Missouri Educational Surrogate Program, acquire a basic understanding of the early intervention services provided through the Part C program in Missouri, and develop the knowledge and skill necessary to adequately represent a child with disabilities. The Department shall provide the educational surrogate training.

#### SPOE responsibilities

Specifically, each SPOE must:

- 1) designate a staff member who is responsible for overseeing the educational surrogate program in their agency. Unless notified otherwise, the Department assumes that the educational surrogate contact person is the same as the SPOE Director;
- 2) complete and return to the Department a "Determination of Need for Educational Surrogate Appointment" form for each child believed to be eligible for receiving an educational surrogate appointment;
- 3) assist the Department in recruiting educational surrogate volunteers and submit their names and addresses to the Department;
- 4) be available to assist the Department with local educational surrogate training; and,
- 5) complete an evaluation for each educational surrogate serving in the SPOE region.

#### Duties of the educational surrogate

An individual appointed to act as educational surrogate shall:

- 1) complete and return to the Department the Educational Surrogate Application and Verification of Eligibility form;
- 2) attend an educational surrogate training session;
- 3) represent their assigned child in all decisions relating to the child's early intervention including matters related to the identification, evaluation, and placement of the child, and,
- 4) notify the SPOE or the Department if any conflicts develop, or if they will no longer be able to fulfill their educational surrogate role.

The educational surrogate has the same rights as a parent for all purposes under Part C of the IDEA.

#### Immunity from liability

The person appointed to act as an educational surrogate shall be immune from liability for any civil damage arising from any act or omission in representing the child in any decision related to the child's early intervention. This immunity shall not apply to intentional conduct, wanton and willful conduct, or gross negligence.

#### Reimbursement

The person appointed to act as an educational surrogate shall be reimbursed by the Department for all reasonable and necessary expenses incurred as a result of his or her representation of a child with a disability. Determination of "reasonable and necessary" expenses shall be made at the discretion of the Department and pursuant to State Office of Administration guidelines. Such expenses do not include attorney fees or child care/babysitting expenses.

### Evaluation

The Department requests the SPOE evaluate each educational surrogate, and the SPOE will recommend the continuation or termination of the educational surrogate appointment. The SPOE shall provide documentation supporting a recommendation of termination. Upon receipt of a recommendation of termination, the Office of Special Education will investigate and reach a decision on whether to terminate.

### Termination

The educational surrogate appointment shall be terminated at the request of the educational surrogate or in the event of any of the following situations:

- 1) the conclusions of the initial evaluation and assessment indicate that the child does not qualify for receiving early intervention services;
- 2) the child's parent or guardian reappears to represent him or her, or wardship is terminated;
- 3) the child is no longer in need of early intervention services;
- 4) the child reaches the age of three and is no longer eligible for early intervention services and is determined to not be eligible for services in the Part B system; or,
- 5) the educational surrogate fails to fulfill their responsibilities as defined by State and federal regulations.

### Dispute Resolution Options

#### Status of a child during the pendency of a due process complaint (34 CFR 303.430)

During the pendency of any proceeding involving a due process complaint under this section, unless the Department and parents of a child otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parents.

If the due process complaint involves an application for initial services under Part C of the IDEA, the child must receive those services that are not in dispute.

#### Mediation (34 CFR 303.431)

The Department allows parties to resolve disputes involving any matter under Part C of the IDEA, at any time, through a mediation process. Mediation is:

- 1) voluntary on the part of the parties;
- 2) not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of the IDEA;
- 3) conducted by a qualified and impartial mediator who is trained in effective mediation techniques; and,
- 4) provided at no cost to parents.

The parties must mutually agree on a mediator from the trained mediator list maintained by the Office of Special Education.

Mediation is conducted as follows:

- 1) mediation must be scheduled within 15 days of the selection of a mediator;
- 2) mediation must be conducted at a time and place mutually agreed upon by the parties;
- 3) mediation must be completed within 30 days of the agreement to mediate;

- 4) any agreement reached during the mediation must be in writing and delivered to each party;
- 5) no more than three persons can accompany each party unless the parties mutually agree on additional participants;
- 6) no attorney shall participate or attend on behalf of any party at the mediation session; however, a lay advocate may accompany parents;
- 7) discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under Part C of the IDEA.

If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:

- 1) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and,
- 2) Is signed by both the parent and a representative of the participating agency who has the authority to bind such agency.

A written, signed mediation agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States.

Mediator qualifications:

- 1) mediators must be impartial and free of any conflict of interest;
- 2) mediators shall not be employees of an agency that is involved in the early intervention services for the child and/or family;
- 3) mediators must have knowledge of laws and regulations relating to the provision of appropriate early intervention service to children with disabilities;
- 4) mediators must have a minimum of 16 hours of training as a mediator and provide the Department with a resume or biographical statement reflecting their qualifications; and,
- 5) mediators, to be placed on the Department mediator list, must meet the above requirements and must agree to be compensated at a set rate.

A person who otherwise qualifies as a mediator is not an employee of the Department solely because he or she is paid by the Department to serve as a mediator.

#### Effect on due process hearing timelines

The process for assigning a hearing officer and scheduling a due process hearing may occur simultaneously with the mediation process. In the event that the due process hearing is scheduled for a date prior to the date of the completion of the mediation, one or both of the parties may request, and obtain, an extension of the due process hearing timeline from the hearing officer if the desire is to proceed with the mediation.

#### Child complaint procedures (34 CFR 303.432 to 303.433)

The Department has written procedures for receiving and resolving any written and signed child complaint that any participating agency is violating a requirement of Part C of the IDEA. The Department disseminates the Missouri Part C Child Complaint procedures to parents and other interested individuals including parent training centers, Protection and Advocacy agencies, and other appropriate entities, through a variety of public awareness activities.

### Filing a Child Complaint (34 CFR 303.434)

Any individual or organization may file a signed written child complaint with the Department.

The child complaint must include:

- 1) A statement that a participating agency has violated a requirement of Part C of the IDEA;
- 2) The facts on which the statement is based;
- 3) The signature and contact information for the complainant; and,
- 4) If alleging violations with respect to a specific child:
  - a) the name and address of the residence of the child;
  - b) the name of the provider serving the child;
  - c) a description of the nature of the problem of the child, including facts relating to the problem; and,
  - d) a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

The child complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received. The party filing the complaint must forward a copy of the complaint to the SPOE or provider serving the child at the same time the party files the complaint with the Department.

### Processing of child complaint

Upon receipt, the child complaint must be reviewed by the Department and staff are assigned to investigate it. The child complaint investigation process includes:

- 1) The Department must send notice to the agency against which the complaint is filed and to the complainant. The notice includes a statement of the elements of the complaint, a description of the investigation process and an invitation to provide any relevant information that the parties want considered.
- 2) Documentation requests and phone interviews are the primary methods of data collection in the child complaint investigation. The complainant is given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint. The respondent has an opportunity to respond to the complaint, including, at a minimum, a proposal to resolve the complaint and an opportunity for a parent who has filed a complaint and the respondent to voluntarily engage in mediation.
- 3) If the Department determines that the investigation requires an on-site visit, separate notice to the agency shall be given. This notice may be given by phone, or may be in writing. The notice must include a statement of the records to be made available, staff to be interviewed, and any need for access to agency facilities.

### Investigation timelines

The Department has, upon receipt of the complaint, 60 calendar days to review all relevant information and issue a letter of findings whether the agency is violating a requirement of Part C of the IDEA regulations. The Commissioner of Education or designee may grant extension of this time limit if exceptional circumstances exist with respect to the particular complaint or if the parent and the respondent agree to extend the time to engage in mediation. If such an extension is given, notice must be given to the complainant and the agency under investigation, with documentation of that notice to be maintained within the child complaint file.



### Resolution of the child complaint

Resolution of a child complaint must be through the issuance of a written decision letter of findings by the Commissioner of Education or designee. The decision letter must include findings of fact and conclusions, and provide reasons for the decision. These findings address each allegation in the complaint and reviews of the investigation results, including any information in an on-site investigation or from a data request. Technical assistance is available to implement any corrective actions ordered. The basis for resolution may be any one of the following:

- 1) A decision that the party is in compliance.
- 2) A decision that the party is out of compliance, but that voluntary corrective action has been taken requiring no further corrective action.
- 3) A decision that the party is out of compliance and ordering a specific corrective action to be completed by a certain date.

### Remedies of denial of appropriate services

In resolving a child complaint in which the Department finds a failure to provide appropriate services, the Department, pursuant to its general supervisory authority under Part C of the IDEA, must address how to remediate the failure to provide appropriate services, including as appropriate, compensatory services or the awarding of monetary reimbursement or other corrective action appropriate to address the needs of the child and the child's family and appropriate future provision of services for all children with disabilities and their families.

### Appeal rights

The findings of the Commissioner of Education related to the child complaint shall constitute a final decision of the Department which cannot be appealed.

### Complaint filing and due process hearing requests

If a written child complaint is received that is also the subject of a due process hearing or contains multiple issues, of which one or more are part of that hearing, the Department must set aside any part of the child complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the child complaint that is not part of the due process hearing must be resolved within the 60-calendar-day timeline using the child complaint procedures described in this section.

If an issue is raised in a child complaint that has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and the Department must inform the complainant. A child complaint alleging an agency's or service provider's failure to implement a due process hearing decision must be resolved by the Department.

### Due process hearing procedures

To initiate a due process hearing, a written statement requesting a due process hearing and indicating the concerns must be submitted to the Compliance Section, Office of Special Education, Department of Elementary and Secondary Education. The due process complaint must allege a violation that occurred not more than one year before the date the due process complaint is received. Within 30 days of receipt of this statement, a hearing is held to review the concerns. The hearing is conducted by a hearing officer named by the Office of Special Education.

#### Appointment of an impartial due process hearing officer (34 CFR 303.435)

An impartial person must be appointed as a hearing officer to implement the due process hearing procedures in this section. The person must have knowledge about the provisions of Part C of the IDEA and the needs of, and services available for eligible children and their families. The due process hearing officer performs the following duties:

- 1) Listen to the presentation of relevant view points about the complaint, examine all information relevant to the issues and seek to reach a timely resolution of the complaint, and
- 2) Provide a record of the proceedings, including a written decision.

As used for due process hearings, impartial means that the due process hearing officer appointed to implement the complaint resolution process:

- 1) Is not an employee of the Department or a provider involved in the provision of early intervention services or care of the child or child's family, and
- 2) Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.

A person who otherwise qualifies as a due process hearing officer is not an employee of the Department solely because the person is paid by the Department to implement the due process hearing procedures.

#### Parent rights in due process hearing proceedings (34 CFR 303.436)

The Department ensures that parents of a child referred to Part C of the IDEA, involved in a due process hearing, have the right to:

- 1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for children with disabilities;
- 2) Present evidence, and confront, cross-examine, and compel the attendance of witnesses;
- 3) Prohibit the introduction of any evidence at the proceeding that has not been disclosed to the parent at least five days before the hearing;
- 4) Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and,
- 5) Receive a written copy of the findings of fact and decisions at no cost to the parent.

#### Convenience of due process hearings and timelines (34 CFR 303.437)

Any due process hearing is carried out at a time and place that is reasonably convenient to the parents. The Department ensures that no later than 30 days after the receipt of a parent's due process complaint, the due process hearing is completed and a written decision mailed to each of the parties.

A hearing officer may grant specific extensions of time beyond the 30 days at the request of either party.

#### Civil action (34 CFR 303.438)

Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in State or federal court.

## **XVII. FISCAL ADMINISTRATION (34 CFR 303.500 through 303.521)**

The Department ensures a statewide system of fiscal administration includes provisions for the permissive use of Part C funds, the payor of last resort and a system of payments.

### Use of Funds (34 CFR 303.501)

Part C funds may be used for activities or expenses that are reasonable and necessary for implementing the Part C program. This includes:

- 1) Direct early intervention services to children with disabilities in the Part C program that are not otherwise funded through other public or private sources;
- 2) To expand and improve services to children with disabilities in the Part C program that are otherwise available;
- 3) With written consent of the parents, to continue to provide Part C services to children with disabilities over age three, pursuant to the Part C Extension for Children with Summer Third Birthdays; and,
- 4) To strengthen the statewide system by initiating, expanding or improving collaborative efforts related to at-risk children.

### Payor of Last Resort (34 CFR 303.510)

Part C funds may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source. Part C funds are used only for early intervention services that a child with a disability needs but is not currently entitled to receive or have payment made from any other Federal, State, local, or private source.

Part C funds are used as a payor of last resort. If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, Part C funds may be used as interim payment to pay the provider of services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment. Participation in the Part C program does not permit state agencies to reduce medical or other assistance available to a child with a disability in the State when those services are also included in the child's IFSP.

### Funding Sources (303.511)

The Department administers all funds received for the delivery of Part C services. The state and federal funds that support the Part C program include:

- 1) State Appropriations: Each fiscal year, the General Assembly appropriates general revenue funding for the Part C program. This funding is used to meet the Maintenance of Effort requirements under Part C of the IDEA. State funds are expended on direct services, contracts, SICC and training;
- 2) Part C of the IDEA Grant: Each fiscal year, the Department applies for the Part C of the IDEA grant through the U.S. Department of Education. Part C funds are expended on direct services; and,
- 3) Part B of the IDEA Grant: Each fiscal year, the Department applies for the Part B of the IDEA grant through the U.S. Department of Education. Part B funds are expended on state administration, direct services and training.

## **XVIII. SYSTEM OF PAYMENTS (34 CFR 303.520 and 303.521)**

In addition to State and federal funds, the Part C program utilizes family cost participation, private insurance and public insurance (MO HealthNet/Medicaid), thus creating a system of payments to fund the program. The Department has in place interagency agreements and state statutes establishing financial responsibility for early intervention services.

The System of Payments policy is provided to parents before consent is obtained to use private and/or public insurance to pay for early intervention services and before consent is obtained for the provision of early intervention services. This policy explains the monthly participation fee and how parents may contest the imposition of a fee and/or the Department's determination of the parent's ability to pay a fee. This policy also explains potential costs that parents may have when the parent's private or public insurance is used to help pay for early intervention services.

#### Family Cost Participation (FCP) (34 CFR 303.521)

The Department implements a system of payments which establishes family participation in the cost of providing early intervention services as mandated in the *RSMo 160.920*. Each eligible child and family participating in the Part C program is assessed to determine an ability to pay a participation fee. The following definitions help families understand the collection of information for determining the FCP fee and how the fees are calculated:

#### Adjusted gross income

Adjusted gross income means the adjusted income as reflected on the previous year's federal income tax form.

#### Family cost participation/family fee

Family cost participation/family fee means the maximum amount the family must pay per month based on the family's ability to pay, considering the family's adjusted income as determined on the previous year's federal income tax form. The fee is based on a family unit, not per individual child.

#### Family expenses

Family expenses mean costs paid by the family, including extraordinary medical expenses, which may be considered in assessing financial hardship to determine if an adjustment to the calculated monthly fee is appropriate.

#### Family unit/household size

Family unit/household size means the group of individuals in the same household whose information is used to determine family size and financial resources. It could include, but is not limited to, biological parents, adoptive parents, step-parents, and children (biological and adoptive). For the purposes of determining the size of the family unit, dependency for family members must meet the dependency test applied by the federal Internal Revenue Code.

#### Head of household/financially liable person

Head of household/financially liable person means the individual who is obligated to pay the calculated monthly fees for participation.

#### Income verification

Income verification means the process of reviewing family documentation of income and allowable expenses occurs during the intake process, annual review, or at other times as requested by the family, the SPOE, or the Department.

#### Gross annual earned income

Gross annual earned income means the total income from employment sources before payroll deductions and other withholdings. Examples include salaries and wages, tips, commissions, bonuses and any other income as required in the reporting of federal income tax.

#### Gross annual unearned income

Gross annual unearned income means the total income from investments and other sources unrelated to employment. Examples include interest earnings, tips, dividends, annuities, rents, pensions, disability/survivor benefits, workers compensation, unemployment, retirement benefits, and any other income as required in the reporting of federal income tax.

The federal income tax return is the preferred method for collecting adjusted gross income and family unit/household size.

#### FCP fee schedule

FCP fees are based on a sliding scale that considers the adjusted gross income for the family and the number of family members. The determination of the parent's ability or inability to pay is made at the initial IFSP, the annual IFSP and at other times as requested by the family. For families assessed a fee, the minimum fee is \$5.00 and the maximum fee is \$100.00 per month. The sliding scale was developed using 200% of the federal poverty guidelines for the year 2005.

The sliding scale is updated annually when changes occur in the federal poverty guidelines. Changes to the calculated amount of the family fees take effect the month following the change.

The sliding scale may be viewed at:

<http://www.dese.mo.gov/divspeced/FirstSteps/FCPmainpg.htm>.

#### FCP fee adjustments and financial hardship

Adjustments to the monthly FCP fee may be increased or decreased at any time, including during the initial fee assessment, for the following situations:

- 1) Change in family unit/household size;
- 2) Change in gross annual income of more than ten percent; and,
- 3) Financial hardship in which unplanned events impact the family's financial situation and expenses (including but not limited to: loss of home, loss of job, extraordinary medical expenses and other events determined appropriate by the SPOE Director).

The parent has 15 working days to report a change to the Service Coordinator. If the parent fails to report the change within the appropriate time frame and a reduction in fee is calculated for the family, the new reduced fee is not retroactive to the time the change occurred.

#### Assessment of FCP

Each eligible child and family participating in the Part C program, including Part C Extension for children with summer third birthdays, is assessed for a FCP fee and classified as having the ability or inability to pay.

*Ability to pay* refers to the determination of a family's financial ability to contribute to the cost of services provided by the Part C program. This determination is based on the family's placement on a sliding fee scale. Placement on the scale at the minimum family participation rate (greater than \$0) as established by statute or by the lead agency indicates an ability to pay.

According to *RSMo 160.920*, if the family is determined to have an ability to pay, an increased fee is charged (\$100), but not more than the actual cost of the early intervention services, in the following situations:

- 1) Parent refuses to provide financial information to the SPOE in order to calculate the fee.
- 2) Parent provides false or misleading information.

*Inability to pay* refers to a determination that the family is not able to financially contribute to the cost of services provided by the Part C program. Placement on the sliding fee scale at \$0 indicates an inability to pay.

The family is determined to have an inability to pay if the child/family is enrolled in Medicaid (under any state entitlement program), Supplemental Security Income (SSI), Food Stamps or the child is in foster care. Furthermore, participation in the Part C program does not reduce medical or other assistance available in the state or alter eligibility under Title V or XIX of the Social Security Act.

If the family is determined to have an inability to pay, the refusal of parental consent to use private insurance may not be used to delay or deny any services. A family determined to have an inability to pay receives all early intervention services at no-cost.

*Failure to pay* refers to a determination that the family had the ability to pay, but has failed to pay the FCP monthly fees. The Department takes action to collect any unpaid amounts due. According to *RSMo 160.920*, these actions include, but are not limited to, suspension of early intervention services except those provided at no cost. The family is notified by mail when monthly fees are:

- 1) 30 days past due;
- 2) 60 days past due; and,
- 3) 75 days past due.

On the 75<sup>th</sup> day after non-payment of the calculated monthly fees, the head of household receives prior written notice by mail indicating that early intervention services (except those provided at no-cost) will be suspended on the 90<sup>th</sup> day of non-payment. The Department must also notify the appropriate SPOE when a family is in non-payment status. The data system contains a comment that services were suspended due to non-payment of required fees. A family may not receive services until the reinstatement criteria are met.

#### Reinstatement criteria

Services suspended due to non-payment of applicable fees may be reinstated upon full payment of the balance due. If less than three months have passed since the suspension of services, the Service Coordinator must reassess the FCP amount before reinstating services. However, if more than three months have passed since suspension of services, the Service Coordinator must reassess both the FCP amount and the existing IFSP activities before reinstating services. The family is not guaranteed the same provider as was assigned prior to the suspension of services.

#### FCP statement

The Central Finance Office sends the family a monthly statement and collects the fees. The monthly fee is due for any portion of a month in which early intervention services are delivered to the family. Families are not charged more than the actual cost of the service (factoring in any

amount received from other sources for payment for that service). Families with public insurance or private insurance are not charged disproportionately more than families who do not have public insurance or private insurance.

#### Dispute of FCP fees

A parent who wishes to contest the imposition of a fee, or the state's determination of the parent's ability to pay, may do one of the following:

- 1) Participate in mediation.
- 2) Request a due process hearing.
- 3) File a state complaint.
- 4) Use any other procedure established by the state for speedy resolution of financial claims, provided that such use does not delay or deny the parent's rights.

#### FCP funding

FCP funding is not considered as state or local funds, but rather as program income as defined in EDGAR at 34 CFR 80.25, and is added to the availability of funds for early intervention services. This funding is expended in the following area:

- 1) Direct early intervention services.

#### No-cost services

The following services are provided at no-cost to all children and families referred to the Part C program:

- 1) Child find activities;
- 2) Evaluation and assessment;
- 3) Service coordination; and,
- 4) Administration and coordination activities (including the development, review, and evaluation of IFSPs and the provision of parental rights).

All early intervention services except the no-cost services are subject to a fee.

#### Private Insurance (34 CFR 303.520)

The Department implements a system of payments which establishes private insurance participation in the cost of providing early intervention services. As mandated by *RSMo* 376.1218, private insurance carriers practicing in Missouri are billed according to the annual declaration. Insurance carriers may choose one of the options below on the annual declaration:

##### Bulk/percentage option

The insurance carrier pays the Part C program by January 31<sup>st</sup> of the calendar year an amount equal to one-half of one percent of the direct written premium for health benefit plans as reported to the Department of Insurance, Financial Institutions and Professional Registration on the health carrier's most recently filed annual financial statement, or five hundred thousand dollars, whichever is less. Individual child or service information is not released to the insurance carrier under the bulk/percentage option and parents are notified of this at the time of parental consent.

##### Direct option

The insurance carrier pays the applicable MO HealthNet/Medicaid rate applied to each early intervention direct service billed for occupational therapy, speech/language therapy, physical therapy, and assistive technology. Individual child and service information is released to the

insurance carrier under the direct option and parents are notified of this at the time of parental consent.

#### Use of private insurance

The family may incur ramifications for the use of the parent's private insurance. Parents are notified of the possible ramifications at the time of parental consent to use private insurance, as follows:

- 1) The use of private health insurance to pay for early intervention services may count towards or result in a loss of benefits due to the annual or lifetime health insurance coverage caps for the child, parents, or family members.
- 2) The use of private health insurance to pay for early intervention services may negatively affect the availability of health insurance to the child, parent, or family members; including being cancelled.
- 3) The use of private health insurance to pay for early intervention services may be the basis for increasing the health insurance premiums for the child, parent, or family members.

In the event the availability of health insurance is negatively impacted due to Part C program participation, the family should contact the Service Coordinator.

#### Premiums/co-pays/deductibles

Parents are responsible to pay the premiums for the parent's private insurance plans. The Part C program acts as the provider of service and does not impose deductibles or co-payments when private insurance is used to pay for early intervention services. In the event the family is charged a deductible or co-pay, the family should contact the Service Coordinator.

#### Parental consent for private insurance

The SPOE obtains parental consent for use of private insurance before the Part C program uses the parent's private insurance to pay for:

- 1) initial provision of early intervention services in accordance with the IFSP;
- 2) an increase in length, duration, frequency, or intensity to early intervention services in accordance with the IFSP; and,
- 3) services in the Part C Extension for children with summer third birthdays.

Obtaining parental consent for the use of the parent's private insurance means personally identifiable information is released in order to bill private insurance for early intervention services. If the family is determined to have the inability to pay, the refusal of parental consent to use private insurance may not be used to delay or deny any services.

If the parent does not provide consent to use private insurance, no-cost services and any early intervention services listed on the child's IFSP for which the parent provides consent must still be available to the child.

If the family has private insurance, where private insurance is required to pay before public insurance, the family may incur ramifications as described in the *Use of private insurance for direct option* section.



#### Private insurance funding

Proceeds from private insurance are not considered as state or local funds, or as program income. These funds are added to the availability of funds for early intervention services and expended in the following area:

- 1) Direct early intervention services

#### Public Insurance (34 CFR 303.520)

The Department implements a system of payments which establishes public insurance participation in the cost of providing early intervention services. Public insurance refers to MO HealthNet/Medicaid funds.

The Department informs families of the public insurance availability but does not require a parent to sign up for or enroll in public insurance as a condition of receiving early intervention services.

#### Use of public insurance

According to the terms of the interagency agreement between the Department and the MO HealthNet Division, MO HealthNet/Medicaid claims for early intervention services are not in violation of the child's or parent's public insurance provisions listed below:

- 1) Decrease available lifetime coverage or any other insured benefit for that child or parent under that program.
- 2) Result in the child's parents paying for services that would otherwise be covered by the public insurance program.
- 3) Result in any increase in premiums or discontinuation of public insurance for that child or that child's parents.
- 4) Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.

#### Notification to parents

The SPOE obtains parental consent before personally identifiable information is released to MO HealthNet/Medicaid in order to bill for early intervention services.

If the parent does not provide consent to use public insurance, no-cost services and any early intervention services listed on the child's IFSP for which the parent provides consent must still be available to the child.

Parents may withdraw the consent to public insurance at any time.

Parents are responsible to pay the premiums for the parent's public insurance, if applicable. For families with public insurance, the Part C program acts as the provider of service and does not impose deductibles or co-payments for early intervention services.

#### Parental consent for public insurance

The SPOE obtains parental consent before releasing personally identifiable information to MO HealthNet/Medicaid to enroll the child/parent in MO HealthNet or to use public insurance to pay for Part C services in accordance with the IFSP. Parental consent for public insurance must also be obtained if a violation of the public insurance provisions occurs as described in the *Use of public insurance* section.

#### Public insurance funding

Proceeds from public insurance are not considered as state or local funds, or as program income. These funds are added to the availability of funds for early intervention services and expended in the following area:

- 1) Direct early intervention services.

#### Families with Private Insurance and Public Insurance (34 CFR 303.520)

If the family has both private insurance and public insurance, where private insurance is required to pay before public insurance, the family may incur ramifications as described in the *Use of private insurance for direct option* section. Requirements for parental consent for both private insurance and public insurance apply to the family.

#### Dispute Resolution (34 CFR 303.511)

Any and all services identified in the child's IFSP, or which the parent is entitled to, shall not be delayed or denied during an internal or interagency dispute resolution and until the dispute is resolved. The Department must use Part C funds to pay for the identified services until the dispute is resolved and responsibility is assigned.

For internal disputes, each agency must follow the agency's respective procedures.

For interagency disputes between agencies, each agency must follow the procedures outlined in the applicable interagency agreement.

### **XIX. SUPERVISION AND MONITORING OF PROGRAMS (34 CFR 303.120)**

The Department is responsible for the general administration and supervision of programs and activities in the early intervention system to ensure compliance with Part C of the IDEA.

The Department is also responsible for the monitoring of programs and activities used by the State to carry out the Part C program (whether or not the programs or activities are receiving Part C funds) to ensure compliance with Part C of the IDEA. The Department fulfills this obligation through the following methods:

- 1) Monitoring of participating agencies used by the State to carry out Part C of the IDEA;
- 2) Enforcement of any obligations imposed on those participating agencies under Part C of the IDEA;
- 3) Providing technical assistance, if necessary, to those participating agencies; and,
- 4) Correction of noncompliance identified through monitoring as soon as possible and in no case later than one year after the Department identifies the noncompliance.
- 5) Conducting the monitoring activities consistent with federal and State reporting requirements.

In the event a participating agency fails to comply with the provisions under Part C of the IDEA, the Department may initiate actions as set forth in the contract.

### **XX. POLICY FOR CONTRACTING OR OTHERWISE ARRANGING FOR SERVICES (34 CFR 303.121)**

The Department ensures that all contracts or other arrangements with entities to provide early intervention services include a requirement that services and personnel must meet State standards,

are consistent with the provisions of Part C of the IDEA and the uniform administrative requirements for grants and cooperative agreements as defined in EDGAR at 34 CFR 80.

## **XXI. DATA COLLECTION AND ANNUAL REPORTS (34 CFR 303.124 and 303.700 through 303.702)**

The Department utilizes a data system to compile and report timely and accurate data. The Department collects valid and reliable information as needed to report annually to the U. S. Department of Education. Required annual reporting includes, but is not limited to:

- 1) an annual report of data required under section 618 of the IDEA;
- 2) public reporting of local program performance; and,
- 3) an annual performance report, which is also sent to the Governor.

In accordance with reporting requirements in this section, the Department submits the number and percentage of children with disabilities who are eligible for services under Part B but whose parents choose for their children to continue to receive Part C services under the Part C Extension policy.



**Missouri Department of Elementary and Secondary Education**  
**P. O. Box 480**  
**Jefferson City, Missouri 65102-0480**  
**<http://dese.mo.gov>**

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